

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRENDA LEE VALERIO ,

Defendant.

CR-06-96-GF-BMM-02

**ORDER ADOPTING MAGISTRATE
JUDGE’S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT’S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on September 29, 2015. (Doc. 175). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1986). This Court will review Judge Johnston’s Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on September 28, 2015. (Doc. 170.) Valerio admitted to having violated her conditions of supervised release by: (1) using Adderall without a prescription; and (2) associating with a felon. (*Id.*) Judge Johnston found the evidence sufficient to establish that Valerio violated the conditions of her supervised release. (*Id.*)

Judge Johnston recommends this Court revoke Valerio's supervised release and that the Court sentence Valerio to a sentence of time served with no supervised release to follow. (Doc. 175.)

Valerio's criminal history category is III, the current violation is a Grade C, and the underlying offense in Count I is a Class B felony. Count II of the underlying offense has expired. The statutory range is a maximum of 36 months on Count I. The statutory and guideline term of supervised release is 40 months, less any custody time imposed. The United States Sentencing Guidelines call for five to eleven months in custody.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. Valerio's current violation is serious in nature. A sentence of time served with no supervised release to follow is sufficient, but not greater than necessary given Valerio's history and characteristics.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 175) is ADOPTED IN FULL. **IT IS FURTHER**

ORDERED that Defendant BRENDA LEE VALERIO shall be sentenced to **time served**.

DATED this 30th day of September, 2015.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with the first name "Brian" and last name "Morris" clearly distinguishable. It is positioned above a horizontal line.

Brian Morris
United States District Court Judge